

PARK PLACE

We hereby give notice to all concerned that the price of all Lots in

PARK PLACE

remaining unsold on and after Wednesday, February 1st, 1905, will be advanced
FIFTY DOLLARS EACH.

These lots adjoin the Speedway at Reservoir Park.

Terms: \$10.00 cash and \$5.00 per month; no interest or taxes until paid for in full.

The Real Estate Loan Deposit Co. Room 307, American National Bank Building

OPINIONS FROM SUPREME COURT

Digests of a Number of Cases
Handled Yesterday.

OSTRANDER IS NOT GUILTY

Appended are digests of several of the more important opinions handed down by the Supreme Court yesterday.

In the cases of Crall and Ostrander vs. Commonwealth, and Crall vs. the Commonwealth, the first from the Corporation Court of the city of Manchester, and the second from the Circuit Court of Chesterfield, the opinion of the court is written by Judge Stafford G. Whitte. The cases involve precisely the same issues—the construction of the statute defining a peddler and the imposition of a license tax for peddling. The plaintiffs in error contended that they were doing an installment business through agents, who were supplied with samples and order books, and who exhibited samples and canvassed for orders, which were turned into those in charge of the company's depositories, the orders being filled by another agent who delivered the goods so ordered, collected a portion of the purchase money and took a written agreement providing for the deferred payment. The contention of the Commonwealth was that the business of the company was to deliver to its agents, goods to be carried from place to place and left with the purchaser on "general leases"; that is to say to be paid for in installments, the company retaining title until purchase price was all paid.

Orders His Discharge.

The statute under which the prosecution is had is quoted in full and under the whole matter of law and fact was submitted to the court, and a judgment of conviction was rendered against both Crall and Ostrander. The case came before the Appellate Court on a demurrer to evidence. The court holds that the evidence of the Commonwealth seems sufficient to sustain the charge that the sales in question were made by agents of the company and elsewhere than at their regular place of business. The court holds that the correct rule in determining the responsibility for violation of the law by a corporation is that all who participate in the violation are liable. The judgment of the Corporation Court of Manchester is affirmed as to Crall. As to Ostrander, it is held that the transac-

tion of which he was accused, was had before he became manager of the Richmond store, and that he cannot be held liable therefor. The higher court adjudge C. C. Ostrander not guilty, and orders that he be acquitted and discharged.

The case of Crall vs. the Commonwealth presents an identical similar case as to the plaintiff in error, and the court sustains the judgment of the Circuit Court of Chesterfield county.

Johnson Against Black.

In the case of Johnson and others vs. Black and others, an appeal from the decrees of the Circuit Court of Norfolk county, the opinion of the court is written by Judge George M. Harrison, and is an exhaustive and complete review of a remarkable case. The issues involved are such that they may have a bearing in other counties of the State.

W. S. Johnson, John A. Codd, George E. Wood, J. C. Lynch, and D. M. Harding, the appellants in the case, are or were recently supervisors of Norfolk county. They were made parties defendant in the suit in equity brought by Foster Black and other citizens and taxpayers of the county for the purpose of compelling said appellants to restore to the county treasury certain public moneys, which it is charged, they had illegally and fraudulently drawn from the county funds over and above the sum to which, it is alleged, these supervisors were entitled under the statute for attendance and mileage at meetings of the board within the three years last past as thus stated in the decree of the Circuit Court of Norfolk county, which is held in the original bill should restore to the county, are as follows: W. S. Johnson, \$945.20, with interest; John A. Codd, \$1,282.75, with interest; George E. Wood, \$1,070, with interest; J. C. Lynch, \$412, with interest; and D. M. Harding, \$38.30, with interest.

The lower court held that the evidence did not justify the charge that the defendants had entered into a fraudulent conspiracy, but only showed that they had followed an illegal custom and precedent of their predecessors in office in illegally withdrawing from the treasury of the county moneys in excess of that allowed by law; that the amount of such excess the plaintiffs were entitled to have returned and restored to the treasury, so far as the recovery of the same is not barred by the statute of limitations, which precludes recovery of any amount drawn from the county funds before the sums named, and that the sums named represent only the amount illegally appropriated to themselves during the three years just passed by the supervisors named.

Dismisses Objection.

The first assignment of error by plaintiffs in error was as to the action of the court in not sustaining the demurrer to the bill. It is insisted that the bill is null and void, and should for this reason have been dismissed. The court considers this contention at some length, dismissing the objection as invalid, declaring that the case is free from the vice of multifariousness.

The second contention is that the demurrer should have been sustained and the bill dismissed because the appellees had an adequate remedy at law. The appellate court sustains the view of the defendants in error that courts of equity have jurisdiction in this and similar cases, and that, having once acquired it, they never lose it because jurisdiction of the same matter is given to courts of law. In the absence of restrictive or prohibitory words in the statute, it is further held that there is no adequate remedy at law for the recovery of moneys illegally diverted from and already paid out of the public treasury, which is the object of this suit.

The contention of the plaintiffs in error that the defendants in error were guilty of laches is dismissed as untenable. It is well settled, says the court, that laches cannot be imputed to those who are ignorant of their rights, as were defendants in error.

On the whole the court holds that the lower court properly overruled the demurrers. The court, after considering the question of the illegality of the action of the supervisors, says that the conclusion is plain that the appellants have without authority of law appropriated to their own use the public funds of the county, and that they should be required to restore the same to the public treasury to the extent that they severally appear to be liable therefor.

The appellees assign as a cross error the action of the Circuit Court in sustaining the pleas of the statute of limitations, set up in the answers of the appellants as a defense in part to the bill. Says the court on this point: The appellants are only constructive or implied trustees and in such cases it seems to be well settled that the bar of the statute applies.

tiffs in error are held liable for the sums already stated in each several case.

Richmond Ice Company.

In the case of the Richmond Ice Company vs. the Crystal Ice Company, from the Circuit Court of the city of Richmond, the opinion of the court, written by Judge John A. Buchanan, sustains and affirms the judgment of the lower court. This is the second time this case has been before the appellate court, it having been remanded on account of error. The case grows out of the demolition or destruction by an ice gorge of a portion of the buildings and structures leased by the plaintiff in error from the defendant in error. Because of this damage and destruction of property leased, the plaintiff in error claimed a set off of \$500 against the demands of the landlord company. There are several assignments of error, all of which are considered and overruled, the principal one being that of the court in refusing certain instructions offered by the plaintiff or tenant company, and substituting on its own motion the instructions which the court correctly states the law in the case. The questions of law and fact presented are exhaustively considered in an opinion of fifteen typewritten pages. The lower court's judgment is affirmed, and the cause closed.

Railroad Against Town.

In the case of the Norfolk and Western Railway Company vs. the Town of Suffolk, involving construction of a section of the charter of the town of Suffolk and the validity of an ordinance passed in pursuance thereof, imposing a license tax of \$50 on plaintiff in error for the privilege of conducting its business in that town, the opinion of the court is written by Judge Stafford G. Whitte, and affirms the judgment of the Circuit Court of Nansemond. The opinion in this case is an unusually voluminous one, and is characterized by a detailed consideration of various contentions of the plaintiff in error.

After quoting the language of the charter, the opinion states that the court is of opinion that the phraseology of the charter in question measures up to the requirement, that it is stated in plain and unequivocal terms that the State has clothed with part of its sovereignty this municipal corporation in the matter of levying taxes.

In concluding his opinion, Judge Whitte says: The tax imposed by the ordinance is a tax imposed upon the privilege of doing business in the city and is wholly different from a property tax. It is immaterial that the State taxes the property of the company on the ad valorem system. The two subjects of taxation are wholly different, and both may be taxed without being obnoxious to the objection that it is double taxation.

Fredericksburg Reversed.

In Kloss vs. the Commonwealth, Judge John A. Buchanan writes the opinion of the court, reversing the judgment of the Corporation Court of Fredericksburg and dismissing the prosecution which is the occasion of the appeal.

The question presented in this case is whether Kloss, a traveling salesman for a Manchester broom manufacturer, in doing the acts he did without a license, came within the provision of the statute with regard to peddling. Kloss was a traveling salesman selling brooms by wholesale by the city of Newport News, after careful consideration of the methods employed, says that the universal rule that penal statutes are to be construed strictly, except where otherwise provided by statute, applies with full force to a case like the present. Kloss, accordingly, held to be not guilty of the charge of peddling without a license, and the prosecution against him dismissed.

In Swift and Company vs. Wood and others, the opinion of the court, delivered by Judge George M. Harrison, affirms the judgment of the Corporation Court of the city of Newport News. This case grows out of the motion made by Wood and others to the Corporation Court to set aside and declare null and void a pretended or alleged judgment obtained by the plaintiffs in error, Swift and Company, March 11, 1901, for \$23.84, with interest. This judgment had been obtained on motion under the statute. The ground chiefly relied upon by Wood and others for asking to have the judgment annulled was that the notice on which the judgment was obtained had not been returned to the clerk's office within five days after its alleged service, as required by the statute. Plaintiffs in error insisted that the return was within the five days contemplated by the statute. The appellate court holds that this question has been settled in this State for many years by the decision of this court in the case of Turnbull vs. Thompson. Plaintiffs in error further contended that one of the days was Sunday, and therefore not a judicial day, and cannot be counted in computing the time. This position is held to be untenable. The opinion of Judge L. L. Lewis, in the case of Bowles vs. Brauer is quoted and relied on as

decisively settling this issue. The judgment complained of is affirmed.

SUMMARY OF OPINIONS.

List of Cases Disposed of by the Court—Petitions.

By James Keith, president: McCue vs. Commonwealth, Corporation Court of city of Charlottesville. Upon petition for writ of error. Denied.

By Judge R. H. Cardwell: Wheelwright, et al., vs. Commonwealth, State Corporation Commission. Reversed.

Parley vs. Thalhimer, Circuit Court of city of Richmond. Reversed.

By Judge John A. Buchanan: Kloss vs. Commonwealth, Corporation Court of city of Fredericksburg. Reversed.

By Judge George M. Harrison: Johnson, et al., vs. Black, et al., Circuit Court of Norfolk county. Affirmed.

Swift & Co. vs. Wood, et al., Corporation Court of city of Newport News. Affirmed.

By Judge Stafford G. Whitte: Crall and Ostrander vs. Commonwealth, Corporation Court of city of Manchester. Affirmed in part, and reversed in part.

Crall vs. Commonwealth, Circuit Court of Chesterfield county. Affirmed.

Norfolk and Western Railway Company vs. Town of Suffolk, Circuit Court of Nansemond county. Affirmed.

By Judge George M. Harrison: Johnson, et al., vs. Black, et al., Circuit Court of Norfolk county. Affirmed.

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SAYS DEMOCRATS ARE FOR RATE WAR

Williams Causes Enthusiasm by
Statement That Minority Will
Support President.

SENATE AMENDS ARMY BILL

(By Associated Press.)

WASHINGTON, D. C., Jan. 26.—The agricultural appropriation bill was considered in the House to-day, but the debate turned principally on the topic of restricting the railroads in the matter of freight rates. As it is impossible to deal with subject, the Hepburn bill, although not before the House, and which probably will not be for several days, formed the basis of the discussion. A feature of the debate was the statement by Mr. Williams, of Mississippi, who said that on the subject of revision of rates the Democratic party was committed without addition or subtraction to the recommendations of the President. He said in his recent message, "The Democrats," he said, were glad to have the President's views, "because it was Democratic doctrine." He said he was only too glad that the President was more of an American than a "Republican" or "Democrat." "We will, too, mark his tracks on this subject," declared Mr. Williams, amid general applause, "and," he added, facing the Republican side, "we call on you as American citizens to help us to mark them."

Mr. Williams later asserted it as his belief that railroad influence was felt in the Senate at the time the so-called Cullum bill, establishing the Interstate Commerce Commission, was substituted by the Senate conference for the bill as passed by the House. He declared, would have fulfilled requirements.

Mr. Bell, California, asserted that the Hepburn bill was so worded as to be indefinite as to what constituted a reasonable rate.

Consideration of the agricultural bill had not been concluded when the House adjourned.

The House to-day adopted a joint resolution appropriating \$40,000 to defray the expenses of the Senate in conducting the trial of Judge Charles Swayne.

The Senate.

WASHINGTON, D. C., Jan. 26.—The Senate to-day passed the army appropriation bill, after modifying the provision concerning the assignment of retired army officers to active service with military organizations. The effect of the change is to relieve General Miles from his application. While the bill was under discussion, Mr. Gallinger and other senators criticized the amendment regulating the sale of army transports, claiming that the use of government vessels have the effect of forcing unfair competition upon the owners of private vessels. Mr. Hale also found opportunity to condemn operation of the general staff system in the navy. He said he would oppose any effort to establish a similar system in the navy.

OBITUARY.

Captain R. A. Young.

(Special to The Times-Dispatch.)
PETERSBURG, Va., Jan. 26.—Captain Richard Alexander Young, an old and well known citizen of Petersburg, died suddenly last evening at his home on Hunter Street. Captain Young was seventy-eight years old, and had been in poor health for some time, suffering from heart trouble, but was able to be out yesterday. He became ill on the street in the afternoon, and died very soon after being sent to his home. Captain Young was a native of North Carolina, but had lived in Petersburg since 1860, and for a long time was a mercantile business man at one time with his brother, the late Colonel John D. Young, of Louisville, Ky., who was very well known in Petersburg at different times, and was a deputy in the internal revenue office under the late James D. Brady. He was twice married and is survived by eight children.

Captain George B. Clark.

(Special to The Times-Dispatch.)
LAVINIA, Va., Jan. 26.—Capt. George B. Clark, one of the most venerable and esteemed citizens of this county, died at his residence, 18 E. Marshall Street, Thursday, January 26, at 10 o'clock A. M. He was 84 years of age, and was survived by wife and five children.

Funeral TO-DAY (Friday), January 27, at 2 P. M. from the house.

Help You Save.

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of this place, expired suddenly yesterday about 11:30 A. M., at the Southern Depot, whether he had gone to dispatch a telegram.

He was a gallant soldier and served with one of the companies from this county during the Civil War. He was about 78 years of age, and is survived by his widow and several children, who live in other sections of the State, except Mr. J. C. Clarke, who resides in Florida, and Mr. R. J. Clarke, Miss Bull and Mrs. W. R. Dodge, who reside here.

George G. Ailsworth.

(Special to The Times-Dispatch.)
BASTVILLE, NORTHAMPTON CO., VA., Jan. 26.—Mr. George G. Ailsworth, of Accomac Courthouse, died at his home in that village Tuesday about noon in the forty-fifth year of his age. He was stricken suddenly with heart failure while walking along the street, and died without ever regaining consciousness. His sudden death was a shock to his large circle of friends, many of whom live in this county. He had no previous sickness and no indication that death was so near at hand. He leaves a wife, but no children.

The funeral took place at Accomac Courthouse yesterday. The deceased was the brother of Mr. R. J. Ailsworth, of this place, and belonged to one of the oldest families of the Eastern Shore.

W. F. Grizzle.

(Special to The Times-Dispatch.)
OSBORNS GAP, VA., Jan. 26.—William F. Grizzle, aged about seventy, died at the home of his daughter, Mrs. Wampler, of near Carrie, Mr. Grizzle was elected Clerk of the Board of Supervisors at the May election in 1890. He had been a consistent member of the Baptist Church for quite a number of years.

Joah Joliff.

(Special to The Times-Dispatch.)
NORFOLK, VA., Jan. 26.—Mr. Josiah Joliff, father of the Rev. J. K. Joliff, pastor of the Wright Memorial Baptist Church, died at the home of his son at 12:30 o'clock this morning. He was a lifelong resident of Great Bridge, Norfolk, and had for the past six weeks had resided here. He had reached the advanced age of eighty-six years and was highly esteemed. A widow survives him.

The funeral services will be conducted from the old home at Great Bridge tomorrow morning at 11 o'clock, and interment will be in the family burying ground.

J. B. Adams.

(Special to The Times-Dispatch.)
WAKEFIELD, VA., Jan. 26.—Mr. J. B. Adams died at Wakefield Tuesday, Jan. 26, at 10 o'clock. He was a prominent member of the S. S. Railway, Wakefield Lodge, I. O. O. F., sent a delegation to attend the funeral, which Mr. Adams was a prominent member.

Mrs. Lucy Nelson Howard.

(Special to The Times-Dispatch.)
NEWPORT NEWS, VA., Jan. 26.—Mrs. Lucy Nelson Howard, nee Nelson, of Cumberland county, died last night at 10 o'clock. She was seventy-six years old and had been in ill health for some time. She was the wife of the late Thomas Nelson, owner of the famous York mansion at Yorktown, which was headquarters of Cornwallis and a member of one of the oldest Virginia families.

Josiah Brightwell.

(Special to The Times-Dispatch.)
FAIRMONT, VA., Jan. 26.—Josiah Brightwell, one of the best known citizens of Cumberland county, died last night, aged eighty-eight years. He had been confined to his bed for one month. He leaves an aged widow and three children. Funeral services and burial to-morrow at the home, near Cumberland Courthouse.

John H. Lemoine.

(Special to The Times-Dispatch.)
PETERSBURG, VA., Jan. 26.—John H. Lemoine, of Ironside, this county, died after an illness of two weeks. He was a prominent Confederate soldier, having served with distinction in Company B, 27th Virginia Regiment, throughout the war.

W. T. Hawkins.

(Special to The Times-Dispatch.)
PETERSBURG, VA., Jan. 26.—Mr. William T. Hawkins died at his home in Petrick at 10 o'clock last night. Mr. Hawkins was a native of North Carolina, and was forty-seven years old and is survived by his wife and one child.

Mr. Murkland Buried.

(Special to The Times-Dispatch.)
FAIRMONT, VA., Jan. 26.—The remains of Sidney R. Murkland, aged sixty-five years, were brought here to-day and interred in the Fairmont Cemetery. He was a prominent dry goods merchant of Fairmont, but removed to Cumberland County, Va., where he died. He had accumulated a considerable money and retired from active business.

DEATHS.

ANDERSON.—Died, suddenly, January 26, 1905, FRANK W. ANDERSON. He is survived by two sons—William Anderson, of Baltimore, and Frank A. Anderson, of Manchester.

The funeral will take place THIS AFTERNOON, at 3:30 o'clock, from the grave in Oakwood Cemetery. Friends and acquaintances invited to attend. Baltimore papers please copy.

VAN PELT.—Died, at his residence, 18 E. Marshall Street, Thursday, January 26, at 10 o'clock A. M. He was 84 years of age, and was survived by wife and five children.

Funeral TO-DAY (Friday), January 27, at 2 P. M. from the house.

BEHALF OF HARBOR OF PETERSBURG

(Special to The Times-Dispatch.)

PETERSBURG, VA., Jan. 26.—A brief, prepared by Mr. Carter R. Bishop, for the Petersburg Chamber of Commerce, setting forth reasons for an appropriation for the widening and deepening of Petersburg's harbor and use improvement of the channel of the Appomattox River from the head of tidewater to the James River, was mailed to-night to Congressman R. G. Southall, of this district, to be sent to the House Committee on Rivers and Harbors.

A delegation from the Board of Aldermen and Council was recently appointed to appear before that committee in the interest of such an appropriation, but it is now deemed more advisable to present the case in a written summary of reasons, the strength of which is plainly eloquent in its own behalf.

The paper is a concise and comprehensive epitome of facts, showing the great importance to the city's commercial welfare of a good channel in the river and its present urgent necessity, especially to the lumber trade of this port, which, with deep water facilities, would be easily doubled.

The economical use of government appropriation for the Appomattox has been more than the amount of the supplementary sum now asked, and United States engineers have made much more liberal recommendations. The present work is distinct from the diversion scheme, which is designed to maintain the primary channel, deep water between Petersburg and the James River.

Handsome Bookcases, Secretaries, Parlor Furniture, Iron Beds, Stoves, Etc., at Auction.

I will sell THIS DAY at 10:30 A. M. at my warehouse, 414 W. Broad, 1 large Quartered Oak Book Case, Oak and Walnut Secretaries, Oak Folding Bed, 1 Cherry Frame, Silk Tapestry Cover, 1 Parlor Suit, Parlor Chairs, Rockers, Wardrobes, Sideboards, Tables, New China Dress, 8 Oak, Walnut and other Chairs, 1 Oak